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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,767	02/27/2004	Brian Montgomery	FSP0046	1881
29586	7590	06/07/2007	EXAMINER	
FSP LLC			HU, KANG	
P.O. BOX 890			ART UNIT	
VANCOUVER, WA 98666			PAPER NUMBER	
			3714	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/789,767	<b>Applicant(s)</b> MONTGOMERY, BRIAN	
	<b>Examiner</b> Kang Hu	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)):
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 -7 and 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The references for “one of an unpredictable presentation time interval determined by the variable delay generator logic, and a selectable predetermined time interval”, “one of an unpredictable presentation count determined by the variable delay generator logic, and a selectable predetermined presentation count” (as per claim 1), “one of the variable delay generator logic and an analog switch” (as per claim 3), “one of the first counter of the variable delay generator logic and an analog switch” (as per claim 5), “comprising a predetermined delay interval and an unpredictable delay interval” (as per claim 6), “one of the count value of the first counter and a set of selectable fixed values” (as per claim 9), “one of a count value of the first counter and a set of selectable fixed values” (as per claim 10), “one of the first and second counters” (as per claim 11). The claims as cited by the applicant cannot co-exist. One cannot have a predetermined time interval and at the same time an unpredictable time interval. Finally claims 2, 4, and 7 are rejected for incorporating the above errors from their respective parent claims by dependency.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schousek et al (US 6,188,742 B1).

Re claims 1 -7, An apparatus comprising: variable delay generator logic configured to generate a signal to cause presentation of a target an unpredictable time interval after receiving a start signal; (col 3, lines 25-49; col 9, lines 10-67; col 10, lines 1-59) presentation duration control logic configured to cause the presentation of the target to continue for one of an unpredictable presentation time interval determined by the variable delay generator logic or once the player has hit the target, and a selectable predetermined time interval; and presentation count control logic configured to cause target presentation to repeat for one of an unpredictable presentation count determined by the variable delay generator logic, and a selectable predetermined presentation count. (col 1, lines 40-67; col 2, lines 1-55) Although Schousek is silent in regards to the number of presentation count, it would obvious to have a timer to limit the number of presentation counts as desired by the player (claim 1). The apparatus of claim 1, having a variable delay generator logic to generate a signal to cause the presentation of the target an unpredictable time interval after receiving the start signal (col 9, lines 10-67; col 10, lines 1-59). Although the method used

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by Schousek is different from the claim limitation, Schousek does disclose the use of multiple counters, reaction timers and counter modules (col 1, lines 10-15) and RC filters to accomplish the same means (claim 2). The logic further comprising of counters, reaction timers and counter modules to provide a target presentation count to cause the presentations of the target after an interval of unpredictable delay interval (claims 3-7) (figs 1-10).

Re claims 8-11 have been discussed in the above claims.

### ***Response to Arguments***

5. Applicant's arguments, see page 5, claims 1 and 11, filed 3/8/2007, with respect to the rejection(s) of claim(s) 1-7 under 103(a) and claims 8-11 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Schousek et al. (US 6,188,742 B1). The examiner has presented a different interpretation of the previously applied reference. Schousek teaches all of the limitations as claimed by the applicant such as the variable delay generator logic, the presentation duration control logic and the presentation count control logic using different means. Schousek has stated in the invention the use of event counters, including reaction timers and counter modules, RC filters to accomplish the same task as the applicant. It would be a design choice on how many counters the circuit would require and how the clocks are arranged. These design choices cannot be considered as claim limitations.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kang Hu whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KH/  
Kang Hu  
May 25, 2007

  
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TC3700

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